IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

WP(C).No. 22756 of 2007(H)

PETITIONER:

REGIMON, AGED 35 YEARS,
S/O. MANI, URUMBUKATTU, KADANAD P.O.

BY ADV. SRI.N.K.MOHANLAL

RESPONDENTS:
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1. KOTTAYAM DISTRICT CO-OPERATIVE SOCIETY LIMITED, KOLLAPPALLY BRANCH, REPRESENTED BY ITS SECRETARY.

2. AUTHORISED OFFICER, KOTTAYAM DISTRICT CO-OPERATIVE BANK LIMITED, HEAD OFFICE, KOTTAYAM.

3. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, KOTTAYAM.

R1 & R2 BY SHRI SUNIL CYRIAC, SC.

R3 BY GOVERNMENT PLEADER (SMT. ANU SIVARAMAN)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 22756 OF 2007 H

Dated this the 25th July, 2007

JUDGMENT

Petitioner availed a loan. It was not repaid. Recovery steps were taken under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Thereafter, it is not in dispute that possession was also taken under Section 13(4) of the Act. Heard the learned counsel for the petitioner and the learned standing counsel appearing for the respondent Society. Counsel for petitioner would contend that the provisions of Rule 8(5) of the Securitisation Rules are being violated. According to him, only the property sufficient to fetch the decree amount or to fetch the amount due to the Society can be sold. He also submits that the correct market value has to be ascertained before the property is put to sale. He also submits that the petitioner may be given instalment facility. He further submits that the petitioner may be entitled to the benefit of One Time

Settlement Scheme. Counsel for respondent Society submits that the petitioner has not approached the respondent Society. He submits that as far as the complaint of the petitioner in regard to Rule 8(5) of the Rules is concerned, the Rule will be followed. In such circumstances, the Writ Petition is disposed of as follows:

There will be a direction to the second respondent to strictly comply the provisions of Rule 8(5) of the Rules, in the matter of holding sale of the property of the petitioner. I also make it clear that it is open to the petitioner to approach the second respondent seeking the benefit of payment of the amount in instalments, in which case the Society will take a decision on the same.

K. M. JOSEPH, JUDGE

kbk.